

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

Order No. O-12-125

AMENDED FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF FARMERS
INSURANCE EXCHANGE

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance Jim Riesberg ("Commissioner") as a result of a market conduct examination ("MCE") conducted by the Colorado Division of Insurance ("Division") of Farmers Insurance Exchange ("Respondent"), pursuant to §§ 10-1-203, 204, and 205, C.R.S., as well as § 10-3-1106, C.R.S.

Interim Commissioner John Postolowski ("Interim Commissioner") fully considered and reviewed the verified report of the MCE dated April 8, 2011, ("MCE Report"), the written submissions and rebuttals provided May 6, 2011 by Respondent, and the recommendations of staff in his decision to execute Final Agency Order O-11-155 ("FAO155"). In accordance with the Stipulation for Entry of Amended Final Agency Order ("Stipulation"), this Amended Final Agency Order ("Amended FAO") supersedes FAO155.

In reliance on the findings of fact and conclusions of law of the Interim Commissioner in FAO155, the Commissioner makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At all relevant times during the MCE, the Respondent was licensed by the Division to conduct business as a private passenger auto insurer in the State of Colorado.
2. In accordance with § 10-1-203, 204, and 205, as well as § 10-3-1106, C.R.S., on February 9, 2011, the Division completed an MCE of the Respondent. The period of examination was January 1, 2009, through December 31, 2009.
3. In conducting the MCE, the examiners observed those guidelines and procedures set forth in the 2010 Market Regulation Handbook adopted by the National Association of Insurance Commissioners. The Interim Commissioner also employed other

guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1)(a), C.R.S.

4. The MCE was completed on February 9, 2011. Pursuant to § 10-1-205(2), the market conduct examiners prepared the MCE Report, which was timely filed with the Division, under oath, on April 8, 2011. The MCE Report was subsequently timely transmitted to Respondent on April 8, 2011.
5. Pursuant to § 10-1-205(1), C.R.S., the MCE Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons who were examined concerning Respondent's affairs. The MCE Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. On May 6, 2011 Respondent timely filed written submissions and rebuttals to the MCE Report as provided for at § 10-1-205(2), C.R.S.
7. The Interim Commissioner fully considered and reviewed the MCE Report, the written submissions and rebuttals provided by Respondent on May 6, 2011 in response to the MCE Report, and the recommendations of staff.
8. The MCE has proceeded under the substantive terms, authority and procedures set forth at §§ 10-1-203, 204 and 205, C.R.S., as well as § 10-3-1106, C.R.S.
9. This MCE was not conducted as an informal investigation of consumer complaints.
10. This MCE was not conducted as a targeted on-site examination pursuant to § 10-1-212, C.R.S.
11. On July 8, 2011, Respondent timely filed a Verified Complaint for Judicial Review in Denver District Court, Case No. 2011CV4884 ("Complaint"), seeking judicial review of FAO155 and other matters related to the MCE and the MCE Report, and naming the Commissioner and the Division as defendants. The Defendants filed an Answer to the Complaint on or about August 8, 2011. Subsequently, the parties have filed motions in the District Court case, and have been engaging in settlement negotiations to consummate this settlement.
12. On July 13, 2011, Respondent also filed a Notice of Appeal and an Unopposed Motion to Stay Judicial Proceedings Pending Resolution of Judicial Review in the Colorado Court of Appeals, Case No. 2011CA1415. On August 5, 2011, the Court of Appeals stayed payment of the civil penalty by Respondent, conditioned upon the filing of a supersedeas bond in the District Court securing payment of the civil penalty, and further stayed all proceedings in the Court of Appeals pending resolution of the Denver District Court matter, whether through settlement or litigation.

CONCLUSIONS OF LAW AND ORDER

13. In accordance with the Stipulation, this Amended FAO supersedes FAO155.
14. The Division's findings of fact, issues identified by the Division and the recommendations regarding the MCE are set out in the revised MCE Report filed on June 8, 2011 with FAO155 ("Revised MCE Report").
15. Unless expressly modified in this Amended FAO, pursuant to § 10-1-205(3)(a), C.R.S., the Commissioner adopts the Revised MCE Report as filed on June 8, 2011. The Commissioner finds the Respondent is operating in violation of Colorado insurance law and hereby orders the Respondent to take necessary and appropriate action, as set forth herein, to cure such violations.
16. After consultation with the Interim Commissioner, the Commissioner considered the options available under §10-1-205(3)(b) and (c), C.R.S. After such consideration the Commissioner did not reject the Revised MCE Report or direct the examiners to reopen the MCE for the purposes of obtaining additional data, documentation, or information, or to refile the Revised MCE Report pursuant to subsection (1) of §10-1-205, C.R.S. The Commissioner finds an investigatory hearing, pursuant to § 10-1-205(3)(c), C.R.S., for the purposes of obtaining additional documentation, data, information, and testimony, is not warranted.
17. A copy of the Revised MCE Report is attached to this Amended FAO and is incorporated herein.
18. Issue A1 concerns the following: Failure to retain and provide medical payment claims received dates as required for testing of timeliness of paid and denied medical payment claims for market conduct purposes. This failure constitutes a violation of § 10-4-642, C.R.S., and Colorado Insurance Regulation 1-1-7. Respondent shall reprogram its claims handling system and implement those changes no later than December 31, 2012 (the reprogrammed computer system will apply to all Farmers companies doing automobile liability and motor vehicle liability insurance business in Colorado). Respondent will begin to implement HEART in Colorado in or about September 2012, with full implementation to be completed by December 31, 2012 on a going-forward basis.
19. The Division understands and agrees that the implementation of a new computer system can sometimes cause delays unanticipated by an insurance company. Accordingly, the Division agrees that should implementation delays occur, Farmers may, upon demonstration of good cause, obtain an extension of time, not to exceed 180 days, in which to complete implementation. Such request for extension of time shall be made no later than December 15, 2012, and the Division shall not unreasonably withhold the granting of such extension.
20. Pursuant to § 10-4-642(4)(d), C.R.S., the HEART system shall record in electronic

format every claim for payment of medical payments coverage benefits ("Claim") under a Farmers 10 digit occurrence claim number plus a document identification number which is unique for each Claim submitted after the occurrence. The 10 digit occurrence claim number plus the document identification number shall record in electronic format the date of loss, date of auto accident, date of receipt of an application for benefits, date of receipt of the Claim, date of payment of the Claim, and date of denial or date the Claim is closed without payment. Within 60 days after December 31, 2012 or within 60 days after the date of the extended deadline, Farmers agrees to submit written confirmation to the Division through a statement signed by an officer of the company attesting that, to the best of that officer's information, knowledge and belief, Farmers has completed and implemented the HEART system changes as set forth herein.

21. Issue A2 concerns the following: Failure, in some instances, to provide requested records and/or documentation within the required time period during the course of a market conduct examination. This failure constitutes a violation of Colorado Insurance Regulations 1-1-7 and 1-1-8. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure all records required for market conduct purposes are maintained and can be provided within the timeframes as required by Colorado insurance law.
22. Issue E1 concerns the following: Failure, in some instances, to limit cancellation of a private passenger automobile policy to reasons that are allowable under Colorado insurance laws. This failure constitutes a violation of § 10-4-602, C.R.S., and Colorado Insurance Regulation 5-2-12. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its contract provision pertaining to termination or reduction of coverage resulting from false statements to only apply if the false statement was made knowingly, as required by Colorado insurance law. The Respondent shall provide the Division with a copy of the corrected form that shall actually be utilized on all policies issued or renewed by the Respondent on or after sixty (60) days from the date of this Amended FAO. The Division shall consider this submission as acceptable written evidence that the Respondent has corrected the form.
23. Issue E2 concerns the following: Failure to provide accurate information in a form regarding the location of additional information on Respondent's website. This failure constitutes a violation of § 10-3-1104, C.R.S. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised all applicable forms to ensure that its website references are accurate and not misleading in accordance with Colorado insurance law. The Respondent shall provide the Division with a copy of the corrected form that shall actually be utilized on all policies issued or renewed by the Respondent on or after sixty (60) days from the date of this Amended FAO. The Division shall consider this submission as acceptable written evidence that the Respondent has

corrected the form.

24. Issue E3 concerns the following: Failure to provide correct information regarding medical payments coverage in an automobile policy endorsement form. This failure constitutes a violation of §§ 10-4-633, and 10-4-635, C.R.S. No later than Sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its practices and procedures to ensure that all private passenger automobile forms issued by Respondent contain language that complies with Colorado insurance law. The Respondent shall provide the Division with a copy of the corrected form that shall actually be utilized on all policies issued or renewed by the Respondent on or after sixty (60) days from the date of this Amended FAO. The Division shall consider this submission as acceptable written evidence that the Respondent has corrected the form.
25. Issue E4 concerns the following: Certifying, in the annual forms certification filing, forms that were not in compliance with Colorado insurance law. This failure constitutes a violation of § 10-4-633, C.R.S. and Colorado Insurance Regulations 5-2-12 and 5-2-16. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its forms and its forms certification procedures to ensure that its current issued forms are certified and in compliance with Colorado insurance law. The Respondent shall provide the Division with a copy of the corrected forms that shall actually be utilized on all policies issued or renewed by the Respondent on or after sixty (60) days from the date of this Amended FAO. The Division shall consider this submission as acceptable written evidence that the Respondent has corrected the forms.
26. Issue E5 concerns the following: Failure, in some instances, to include forms in use during the examination period on the annual certification of forms list or on a new form certification filing in compliance with Colorado insurance law. This failure constitutes a violation of § 10-4-633, C.R.S. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that its current issued forms are certified in compliance with Colorado insurance law.
27. Issue F1 concerns the following: Failure, in some instances, to apply rating factors based on Respondent's filed rates, as required by Colorado insurance law. This failure constitutes a violation of §§ 10-3-1104 and 10-4-404, C.R.S., and Colorado Insurance Regulation 5-1-10. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its rate filings to include the tables and factors currently in use for compliance with Colorado insurance law.
28. Issue F2 concerns the following: Failure to use a procedure to rate uninsured motorist coverage that ensures all similarly situated individuals are treated the same in compliance with Colorado insurance law. This failure constitutes a violation of

§§ 10-3-1104 and 10-4-404, C.R.S., and Colorado Insurance Regulation 5-1-10. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its rating practices to ensure that all uninsured motorist coverage is rated in a manner that is not unfairly discriminatory and complies with Colorado insurance law.

29. Issue G1 concerns the following: Failure, in some instances, to have applications signed and/or signed timely in compliance with Respondent's guidelines, and failure to retain those documents in compliance with Colorado insurance law. This failure constitutes a violation of § 10-3-1104, C.R.S., and Colorado Insurance Regulation 1-1-7. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its underwriting practices and procedures to ensure that all applicants are treated fairly by acquiring and retaining applications in compliance with its underwriting guidelines and Colorado insurance law.
30. Issue G2 has been removed from the MCE. The Commissioner acknowledges that Respondent is and was compliant with the statutory requirements of § 10-4-635 in that: 1) The customer may reject medical payments coverage in writing or in the same medium in which the application is taken; 2) if the customer is in the agent's office, then the customer signs the written rejection and the policy is subsequently issued without medical payments coverage; 3) if the customer is not in the agent's office (telephone application by way of example and not limitation), the rejection of medical payments coverage is noted in the electronic file and the policy is issued without medical payments coverage. Respondent then follows up with the applicant for a signed rejection within 30 days of the policy issuance; and 4) if the signed rejection is not returned within 30 days of mailing by Respondent, Respondent adds back the medical payments coverage effective to the inception date of the policy, and documents such change in the electronic file. Respondent agrees to retain proof of rejection of medical payments coverage with the policy record for at least three years after the date of rejection.
31. Issue G3 concerns the following: Failure to include notice of the right of the insured to replace coverage through an assigned risk plan in notices of premium increase upon renewal in compliance with Colorado insurance law. This failure constitutes a violation of § 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its premium increase notices to ensure that such notices include notice of the right to replace insurance through an assigned risk plan in compliance with Colorado insurance law.
32. Issue G4 concerns the following: Failure to include correct instructions in the underwriting guidelines regarding premium increases at renewal due to violations by including driver violations that occurred more than thirty-six (36) months prior to the renewal date. This failure constitutes a violation of Colorado Insurance

Regulation 5-2-12. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its underwriting manual to ensure that renewal premiums are increased based only upon accidents and moving violations that occurred within the thirty-six (36) months immediately preceding the date of renewal in compliance with Colorado insurance law.

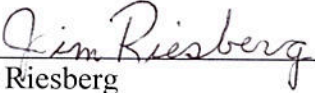
33. Issue G5 concerns the following: Failure, in some instances, to provide correct notification of the right to protest premium increase upon renewal in compliance with Colorado insurance law. This failure constitutes a violation of § 10-4-629, C.R.S. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its underwriting procedures to ensure that only one policy is referenced when offering to exclude a driver in its premium increase notices and that a separate notice is sent on each policy in the household in compliance with Colorado insurance law and the prior agreement reached between Respondent and the Division.
34. Issue G6 concerns the following: Failure, in some instances, to provide correct premium increase notices at renewal and/or failing to provide a notice of premium increase at renewal in compliance with Colorado insurance law. This failure constitutes a violation of §§ 10-3-1104 and 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its underwriting procedures to ensure premium increase notices will be provided and include correct information as required by Colorado insurance law.
35. Issue HI concerns the following: Failure, in some instances, to provide correct notification of the right to protest a cancellation or nonrenewal in compliance with Colorado insurance law. This failure constitutes a violation of § 10-4-629, C.R.S. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that premium increase notices are issued for cancellations or nonrenewals applicable to only one policy per notice in compliance with Colorado insurance law and the prior agreement reached between the Respondent and the Division.
36. Issue H2 concerns the following: Failure, in some instances, to provide cancellation/nonrenewal notices with the right to protest notification when required and/or provide accurate notices, and failure to offer driver exclusions in compliance with Colorado insurance law. This failure constitutes a violation of §§ 10-3-1104 and 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that cancellation/nonrenewal notices are issued in compliance with Colorado insurance law.

37. Issue H3 concerns the following: Failure, in some instances, to provide cancellation/nonrenewal notices that are in compliance with Colorado insurance law. This failure constitutes a violation of § 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its underwriting procedures and cancellation and nonrenewal forms to ensure that cancellation and nonrenewal notices include all required information and are issued in compliance with Colorado insurance law.
38. Issue J1 concerns the following: Failure, in some instances, to send a written explanation within thirty (30) calendar days after receipt of an unclear claim giving a full explanation of what additional information was needed to resolve the claim. This failure constitutes a violation of § 10-4-642, C.R.S. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that the insurer shall, within thirty (30) calendar days after receipt of the claim determined to be unclear, give to the claimant a full explanation in writing of what additional information is needed to resolve the claim, including any additional medical or other information related to the claim in compliance with Colorado insurance law.
39. Issue J2 concerns the following: Failure in some instances, to pay, deny, or settle claims within the time frame required by Colorado insurance law. This failure constitutes a violation of § 10-4-642, C.R.S. No later than sixty (60) days from the date of this Amended FAO, the Respondent shall provide written evidence to the Division that it has revised its procedures to ensure that each unclear medical payments claim shall be paid, denied or settled within ninety (90) days in compliance with Colorado insurance law.
40. The issues and violations described in paragraphs 18 through 39 above are grounds for penalties to be levied pursuant to § 10-1-205(3)(d), C.R.S. The Respondent shall pay a civil penalty to the Division in the amount of two hundred ten thousand five hundred and no/100 dollars (\$210,500.00) for the cited violations of Colorado law. The penalty shall be assessed a surcharge of 10% of the penalty amount up to a maximum of \$7,500.00, pursuant to 24-34-108, C.R.S., for a total balance due of two hundred eighteen thousand and no/100 dollars (\$218,000.00). This penalty and surcharge shall be due to the Division no later than thirty (30) days from the date the Division sends its Invoice. This surcharge shall be used to fund the development, implementation and maintenance of a consumer outreach and education program.
41. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Amended FAO, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the Revised MCE Report and this Amended FAO, which incorporates the Revised MCE Report.
42. This Amended FAO shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the

Revised MCE Report, not resolved according to the terms and conditions in this Amended FAO, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Amended FAO may result in additional actions, penalties and sanctions, as provided for by law.

43. Copies of the Revised MCE Report and this Amended FAO will be made available to the public no earlier than thirty (30) days after the date of this Amended FAO, subject to the requirements of § 10-1-205, C.R.S.
44. Nothing in this Amended FAO shall affect Respondent's rights to injunctive or other relief permitted by law in the event that the Commissioner or the Division violates any of the terms of the Stipulation or this Amended FAO.


WHEREFORE: It is hereby ordered that the findings of facts and conclusions of law contained in the Revised MCE Report, are hereby adopted and filed with the modifications set forth above and made an official record of this office, and the within Amended FAO incorporating the Revised MCE Report is hereby approved and effective this 7th day of March, 2012.


Jim Riesberg
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of March, 2012, I caused to be deposited the **AMENDED FINAL AGENCY ORDER NO. O-12-125 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF FARMERS INSURANCE EXCHANGE**, in the United States Mail via certified mailing with postage affixed and addressed to:

Jeff Sauls
VP - Government & Industry Affairs
Farmers Insurance Exchange
PO Box 2478 Terminal Annex
Los Angeles, CA 90051


Eleanor Patterson
Market Regulation Administrator
Division of Insurance

BEFORE THE COMMISSIONER OF INSURANCE
STATE OF COLORADO

Division of Insurance Case No. 0-1-125

STIPULATION FOR ENTRY OF AMENDED FINAL AGENCY ORDER

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF FARMERS
INSURANCE EXCHANGE

The Colorado Division of Insurance ("Division") and Farmers Insurance Exchange ("Farmers") collectively referred to as the "Parties," hereby enter into the following Stipulation for Entry of Amended Final Agency Order Re: Market Conduct Examination of Farmers Insurance Exchange ("Stipulation").

1. A Market Conduct Examination of Farmers ("MCE") was called by the Division in May of 2010 for the period January 1, 2009 through December 31, 2009, and principally addressed Farmers' private passenger automobile insurance business in Colorado, including the examination of the following issues:
 - a. Company Operations and Management;
 - b. Advertising, Marketing and Sales;
 - c. Complaint Handling;
 - d. Producers/Agents;
 - e. Contract Forms;
 - f. Rates;
 - g. Underwriting, New Business and Renewals;
 - h. Cancellations, Nonrenewals and Declinations;
 - i. Claims.
2. The MCE was conducted by the Division's independent contract examiners. Farmers cooperated with the MCE, provided access to its files and responded timely to requests of the examiners.
3. The MCE was completed on February 9, 2011, and the MCE Report of the findings of MCE, was provided by the contract examiners to the Division on April 8, 2011. The Division transmitted the MCE Report to Farmers on April 8, 2011. The MCE Report sets forth issues and recommendations identified by the Division. The Oath and Verification regarding the MCE Report was signed on April 8, 2011.
4. On May 6, 2011, pursuant to §10-1-205(2), Farmers timely filed written submissions and rebuttals ("Farmers Submission") to the Division in response to the MCE Report. The Farmers Submission addressed the issues and recommendations set out in the MCE Report and further provided Farmers'

position and legal challenges related to the same, and, without admitting noncompliance, identified various revisions to its procedures, and indicated remedial actions that it was taking regarding future compliance as to the non-challenged MCE Report findings and recommendations.

5. On June 8, 2011, pursuant to §10-1-205(3)(a) Interim Commissioner John Postolowski ("Interim Commissioner") issued a Final Agency Order 0-11-155 ("FAO155") adopting, with modifications, the MCE Report. In FAO155 the Interim Commissioner assessed a civil penalty of \$248,000.00 along with a surcharge of \$7,500 for a total amount of \$255,500.00 against Farmers as a result of the findings of FAO155 and the MCE Report and required that this amount be paid within 30 days of the date of FAO155.
6. FAO155 and the MCE Report were transmitted to Farmers on June 8, 2011 by the Division.
7. On July 8, 2011, Farmers timely filed a Verified Complaint for Judicial Review in Denver District Court, Case No. 2011CV4884 ("Complaint"), seeking judicial review of FAO155 and other matters related to the MCE and the MCE Report, and naming the Commissioner of Insurance Jim Riesberg ("Commissioner") and the Division as defendants. The Defendants filed an Answer to the Complaint on or about August 8, 2011. Subsequently, the parties have filed motions in the District Court case, and have been engaging in settlement negotiations to consummate the settlement reflected in this Stipulation.
8. On July 13, 2011, Farmers also filed a Notice of Appeal and an Unopposed Motion to Stay Judicial Proceedings Pending Resolution of Judicial Review in the Colorado Court of Appeals, Case No. 2011CA1415. On August 5, 2011, the Court of Appeals stayed payment of the civil penalty by Farmers, conditioned upon the filing of a supersedeas bond in the District Court securing payment of the civil penalty, and further stayed all proceedings in the Court of Appeals pending resolution of the Denver District Court matter, whether through settlement or litigation.
9. Since the above matters have been pending, the Parties have conducted settlement negotiations and have reached the following agreement in full settlement and resolution of all claims and related matters, including resolution of all issues set forth in the Division's MCE Report and an Amended FAO to be entered by the Commissioner. Upon execution of this Stipulation and the other associated undertakings, Farmers agrees to dismiss, with prejudice, the proceedings in the Denver District Court and the Colorado Court of Appeals.
10. Upon execution of this Stipulation, the Commissioner, for himself and on behalf of the Division, hereby agrees to sign an Amended Final Agency Order ("Amended FAO") concerning the MCE, the MCE Report, and all matters related thereto, which Amended FAO will supersede FAO155.
11. Pursuant to the Amended FAO, upon re-examination of the documentation and data underlying Issue G2, the Division has decided to withdraw Issue G2 from the MCE Report and FAO155. The Division has also agreed to eliminate the

\$30,000.00 civil penalty associated with Issue G2, such that no civil penalty is being assessed with respect to Issue G2.

12. Pursuant to the Amended FAO, the Division will acknowledge in a restated Issue G2 that Farmers is and was compliant with the statutory requirements of § 10-4-635 in that: 1) The customer may reject medical payments coverage in writing or in the same medium in which the application is taken; 2) if the customer is in the agent's office, then the customer signs the written rejection and the policy is subsequently issued without medical payments coverage; 3) if the customer is not in the agent's office (telephone application by way of example and not limitation), the rejection of medical payments coverage is noted in the electronic file and the policy is issued without medical payments coverage. Farmers then follows up with the applicant for a signed rejection within 30 days of the policy issuance; and 4) if the signed rejection is not returned within 30 days of mailing by Farmers, Farmers adds back the medical payments coverage effective to the inception date of the policy, and documents such change in the electronic file. Farmers agrees to retain proof of rejection of medical payments coverage with the policy record for at least three years after the date of rejection.
13. With respect to Issue A1, while not acknowledging noncompliance with § 10-4-642, C.R.S, Farmers agrees to reprogram its claims handling system and implement those changes by the end of 2012 (the reprogrammed computer system will apply to all Farmers companies doing automobile liability and motor vehicle liability insurance business in Colorado). Farmers will begin to implement its HEART system in Colorado on or about September 2012, with full implementation of the HEART system estimated to be completed by December 31, 2012 on a going-forward basis. The Division understands and agrees that the implementation of a new computer system can sometimes cause delays unanticipated by an insurance company. Accordingly, the Division agrees that should implementation delays occur, Farmers may, upon demonstration of good cause, obtain an extension of time for completion of implementation of no more than 180 days. Such request for extension of time shall be made no later than December 15, 2012, and the Division shall not unreasonably withhold the granting of the requested extension.
14. Pursuant to § 10-4-642(4)(d), C.R. S., the HEART system shall record in electronic format every claim for payment of medical payments coverage benefits ("Claim") under a Farmers 10 digit occurrence claim number plus a document identification number which is unique for each Claim submitted after the occurrence. The 10 digit occurrence claim number plus the document identification number shall record in electronic format the date of loss, date of auto accident, date of receipt of an application for benefits, date of receipt of the Claim, date of payment of the Claim, and date of denial or date the Claim is closed without payment.
15. In recognition of Farmers' agreement to re-program and implement the HEART claims handling system as described in paragraphs 13 and 14 above, the Division agrees to reduce the civil penalty on Issue A1 from \$10,000.00 to \$2,500.00. In addition, the Division agrees that the terms of the settlement of the A1 Issue and corresponding reduction in civil penalty shall also apply to the Market Conduct

Exam of Bristol West Insurance Company, a Farmers company, for which the Final Agency Order was issued on December 21, 2011. Furthermore, the Division agrees that, based on Farmers' agreement to apply these changes to all Farmers' companies, it shall not address the A1 issue in any current or future Market Conduct Examinations of Farmers' companies auditing files prior to the implementation of the system changes agreed to herein.


16. Farmers thus agrees to pay a revised total civil penalty of Two Hundred Ten Thousand Five Hundred Dollars (\$210,500.00) plus a surcharge of Seven Thousand Five Hundred Dollars (\$7,500.00) for a total of Two Hundred Eighteen Thousand Dollars (\$218,000.00) to the Division within 14 days of the date that the Amended FAO approving this Stipulation is signed by the Commissioner. Upon payment of this amount, the Commissioner and the Division agree to sign all necessary papers to release and return to Farmers, the cash bond filed in the Denver District Court.
17. Farmers agrees, subject to the limitation set forth in Section 13 above, that Farmers will undertake and complete by December 31, 2012, all of the changes to its HEART system described in paragraph 14 above. Within 60 days after December 31, 2012 or within 60 days after the date of the extended deadline, Farmers agrees to submit written confirmation to the Division through a statement signed by an officer of the company attesting that, to the best of that officer's information, knowledge and belief, Farmers has completed and implemented the HEART system changes as set forth herein. Farmers agrees to submit written confirmation to the Division within sixty days (60) after the Commissioner signs the Amended FAO through a statement signed by an officer of the company attesting that, to the best of that officer's information, knowledge and belief, Farmers has completed all of the required changes to its processes and procedures for all of the remaining Issues set forth in FAO155 and providing documentation and/or descriptions of said changes to the processes and procedures at issue.
18. Farmers understands and agrees that the Division may conduct other market conduct examinations of Farmers' private passenger automobile insurance business, as may be permitted by law.
19. Farmers has paid, to its knowledge, all outstanding costs of the market conduct examination embodied in the MCE Report, including any contractor fees that were due and owing up to and including the date of this Stipulation, with the exception of a final payment of \$5,123.26 associated with the production of the agency record. The Division agrees to provide an invoice to Farmers for this amount, and Farmers shall pay such amount within fourteen days of receipt of such invoice. Payment of these costs was in addition to the civil penalties and surcharge which are to be paid by Farmers as set forth *supra*.
20. By entering into this Stipulation, Farmers knowingly and voluntarily waives its rights concerning the subject MCE, MCE Report and FAO155 pursuant to Colorado statutes and law governing the same, including but not limited to, a hearing in this matter; the right to be represented at such hearing by counsel chosen and retained by Farmers; the right to present a defense, oral and documentary evidence; to cross-examine witnesses at such hearing; and the right

to seek judicial review or other relief regarding the above. Nothing in this provision shall limit or otherwise affect Farmers' rights pursuant to Colorado statutes and law governing MCEs with respect to any future MCE that the Division conducts.

21. Farmer's execution of this Stipulation is not an admission of any violation or liability by Farmers regarding Issue A1 described in the MCE Report, but is instead an agreement to settle the disputed contentions regarding Issue A1 referenced in the Complaint and the related Colorado Court of Appeals Case. Despite this statement of non-admission, Farmers agrees to pay a civil penalty associated with the alleged violation described in Issue A1 of the MCE Report, Farmers agrees to make the HEART system changes set forth herein to comply with the Division's interpretation of the applicable Colorado insurance statutes and regulations set forth in Issue A1 of the MCE Report, and Farmers agrees that it will continue to comply with the applicable statutes and regulations so long as they remain in effect.
22. The Division and Farmers agree that upon completion and full compliance with Paragraphs 11-17 and 19 as set forth herein, this Stipulation shall be a full and final settlement and resolution of all issues that were the subject of the Denver District Court Case No. 2011CV4884 and Court of Appeals Case No. 2011CA1415 and the MCE Report. This Stipulation is intended to resolve all of the civil claims between the Commissioner, the Interim Commissioner, the Division and Farmers, its officers, directors and employees as of the date of the Stipulation. The parties agree to execute any papers necessary to dismiss Denver District Court Case No. 2011CV4884 and Court of Appeals Case No. 2011CA1415, with prejudice, each party to pay their respective attorney fees and costs.
23. Farmers understands and acknowledges that the Division may take such lawful steps as may be required or appropriate to investigate and determine whether Farmers is in compliance with the Stipulation and the Amended FAO approving this Stipulation.
24. In the event the Division takes action relating to alleged violations of this Stipulation or Amended FAO, said Stipulation, Amended FAO and all related materials shall be deemed admissible in full in that proceeding for any relevant purpose.
25. The parties enter into this Stipulation freely and voluntarily, after having the opportunity to consult with legal counsel of their choice, and with full understanding and acceptance of the legal consequences of this Stipulation and the Amended FAO.
26. Farmers understands that this Stipulation and the Amended FAO shall be reported to the National Association of Insurance Commissioners pursuant to §§ 10-2-416(5)(e) and 10-2-803(2), C.R.S.

27. Invalidation of any provision of this Stipulation or the Amended FAO by a court of competent jurisdiction will in no way affect any other provisions, which shall remain in full force and effect.
28. This Stipulation and Amended FAO embody the entire agreement between Farmers, the Commissioner, and the Division, and there are no agreements, understandings, representations or warranties that are not expressly set forth herein.
29. Upon the Commissioner's entry of the Amended FAO, this Stipulation and Amended FAO shall be a public record in the custody of the Division under the Colorado Public Records Act, § 24-72-101, *et seq.*, C.R.S.
30. This Stipulation is subject to approval by the Commissioner or his designee, and shall become binding upon the parties hereto upon such approval. In the event the Commissioner does not approve this Stipulation, the parties shall retain all claims and defenses available to them had this Stipulation not been entered into by the Parties.
31. The Parties retain all legal rights to enforce the terms of this Stipulation as may be applicable in a court of competent jurisdiction.

Signed and dated this 28th day of February, 2012.




John J. Postolowski
Deputy Commissioner of
Finance and Administration



Jeff Sauls, Vice President
Government & Industry Affairs
Farmers Insurance Exchange

Approved as to Form:

JOHN W. SUTHERS
Attorney General, State of Colorado



CHRISTOPHER S. MACIEJEWSKI, #28963*

Assistant Attorney General

TODD S. LARSON, #11929*

First Assistant Attorney General

JUDY L. LABUDA, #22130*

Assistant Attorney General

Business & Licensing Section

Attorneys for Colorado Division of Insurance

1525 Sherman Street, 7th Floor

Denver, Colorado 80203

Telephone: 303-866-2766

chris.maciejewski@state.co.us

todd.larson@state.co.us

judy.labuda@state.co.us

*Counsel of Record

On Behalf of Farmers Insurance Exchange



HUGH ALEXANDER, #14793

COLLEEN A. O'LAUGHLIN, #23339

The Alexander Law Firm

1580 Lincoln Street, Ste. 700

Denver, Colorado 80203

Telephone: 303-825-7307